

YADKIN COUNTY BOARD OF COMMISSIONERS
REGULAR MINUTES
Wednesday, September 8, 2010

The Yadkin County Board of Commissioners met in Regular Session on Wednesday, September 8, 2010, in the Yadkin County Human Services Building (Commissioners' Meeting Room), 217 East Willow Street, Yadkinville, North Carolina.

Present were:

Chairman Chad Wagoner
Vice Chairman Kevin Austin
Commissioner Tommy Garner
Commissioner David Moxley
Commissioner Brady Wooten

Staff present: County Attorney, James Graham; County Manager/Interim Clerk to the Board, Aaron Church; and Assistant to the County Manager/HR Officer, Lisa Hughes.

CALL TO ORDER by Chairman Wagoner at 9:00am

INVOCATION led by James Graham

PLEDGE OF ALLEGIANCE led by Chairman Wagoner

ADJUSTMENT TO / ADOPTION OF THE AGENDA

1. Moved Closed Session to Item VII and Approval of Minutes to Item VIII
2. Added Crossroads Presentation by David Swan under Board Appointments/Reports, Item III.

Commissioner Wooten made a motion to approve the agenda with noted adjustment. Commissioner Moxley second.

Vote: 5/0

Public Comments

Chairman Wagoner opened the Public Comment period by reading a September 3, 2010 email from Dr. Keith Phillips submitting his resignation from the Board of Health. Dr. Phillips sent the email to the Chairman's County email address and the Chairman called Dr. Phillips to confirm that he was the actual sender of the email.

Ann Watkins, of East Bend, spoke as the Vice-Chair of the Board of Health. She stated that she had thought about the factors that led to Dr. Phillips resignation from the Board of Health and is requesting the Board of Commissioners to consider a different Commissioner appointment to the Board of Health that she believes Commissioner Wooten has a conflict of interest. She stated the Board of Commissioners requested a Performance Audit without consideration from the Board of Health and that the Board of Commissioners acted illegally in actions due to Commissioner Wooten and Constitutional Rights have been violated.

Bill Garrett, of Boonville, is new to Yadkin County and stated that he is upset that the County is allowing people to communicate via email on County computers...sexually explicit or pornography should not be allowed. He informed the Board that he retired after 30 years of government experience in the largest city in the state and Dr. Phillips unethical conduct while he was Chair of the Health Board proves that he is incapable of leading the Board of Health. He asked that the Board accept Dr. Phillips resignation.

Jimmy Steadman, of Hamptonville stated that he agreed with Bill Garrett. He worked for the Federal Government for 30 years and he is concerned about the emails and the problems at the Health Department. He also stated that now is not the time to move Communications from the Sheriff's Office and under the County Manager's supervision. He stated that the County is only 2 months into this fiscal year and the move should have been made during the budget process.

Peggy Boose, of Boonville, is concerned that non-profits do not have to meet the same inspection guidelines that other vendors do when selling food as fundraisers. She informed the Board that if neighboring Forsyth County can enforce the same inspections for all organizations, so can Yadkin.

Closed Session

Commissioner Wooten made a motion to go into Closed Session under NCGS 143.318-11(a)(3) for Consultation with Attorney and 143.318-11(a)(6) for a Personnel matter. Commissioner Garner second. Vote: 5/0

The Board came out of Closed Session and Attorney Rick Rice, with Womble Carlyle Sandridge and Rice addressed the Board concerning its email system. Mr. Rice referred to a document provided to the Board in Closed Session that included the Department of Cultural Resources records retention rules for maintenance of emails and other recommendations. The recommendations include decentralizing the email archive responsibilities, filtering software that blocks emails that don't belong on the system, off-site storage of archives and to train employees on duties and direction for email accounts. Staff will provide a policy to address the recommendations.

Commissioner Wooten made a motion for the Board to review the emails discussed in Closed Session, Vice-Chairman Austin second so that the emails would not be in possession of any Board member. Commissioner Garner asked Mr. Rice if the emails were pornographic. Mr. Rice stated that he could not give an opinion based upon only those he viewed. Vice-Chairman Austin stated that he was concerned over work-related emails, not the personal ones. Chairman Wagoner stated that the Board of Commissioners doesn't have authority to police the Health Department. Vice-Chairman Austin stated that the Board of Commissioners has the liability; the Board needs to view the emails so the whole issue can be closed. Chairman Wagoner stated the Commissioners have an obligation to the Board of Health and asked Attorney Graham that if the Board of Health refuses to take action, it goes to the NC Department of Health and Human Services, not the Board of Commissioners. Attorney Graham stated the Board of Health has the authority, not the Board of Commissioners. Vice Chairman Austin asked Attorney Graham if the Board of Health gets sued, who pays for it and Graham responded, the County does.

Vote: 2/3 Motion failed (Moxley, Garner, Wagoner AGAINST)

Commissioner Wooten made a motion to accept the resignation of Dr. Keith Phillips, Chairman Wagoner second.

Vote: 5/0

Commissioner Wooten made a motion to direct IT to not destroy the emails in question and to store them in a proper location forever. Vice Chairman Austin second. Chairman Wagoner stated they should be treated like any other email. Commissioner Garner asked Mr. Rice for his legal opinion. Mr. Rice responded that in this particular case, it would be prudent to retain the emails due to a potential "cause of action" for evidence.

Vote: 3/2 (Wagoner and Moxley against)

Commissioner Wooten requested 4 items be entered into the meeting Minutes. Chairman Wagoner asked that they be put in the next packet for Board's discussion at its next meeting. The 4 items were given to the County Manager/Interim Clerk to the Board.

Approval of Minutes

Commissioner Wooten made a motion to approve the minutes listed below in one action. Commissioner Garner second.

Vote: 5/0

August 12	Closed Session
August 16	Regular Session
August 16	Closed Session
August 30	Joint Board Meeting
August 30	Special Called Meeting

Public Hearing

There were no items for public hearing at today's meeting.

Board Appointments

- 1) Board of Equalization and Review. **Commissioner Wooten made a motion to approve the appointment of Mr. Benny Myers as representation of the farming community and Mr. Terry Titus as representing the developers and builders to the Board of Equalization and Review as replacements for resigning members Mr. Gilbert Hemric and Mr. Marion Welborn. Commissioner Garner second.**
Vote: 5/0
- 2) Review Officers. **Vice Chairman Austin made a motion to update the names for Review Officers in the Review Officer Resolution, Commissioner Wooten second:**
 - a. **Rachel Hood Addressing/GIS Coordinator**
 - b. **Melanie Yates, Planning Technician**
 - c. **Beth Sullivan, Planning Assistant**
 - d. **Matthew Hamby, Land Records Supervisor**
 - e. **David Hayes, Land Records Assistant****Vote: 5/0**
- 3) Crossroads Report. David Swan made an annual report on Crossroads, as well as its 40th Anniversary. He distributed a packet of information to each of the Board members. No Board action necessary.

Consent Agenda

Chairman Wagoner made a motion to approve items 1 (DSS Contract with the American Red Cross) and 2 (Health Department Budget Amendment) under the Consent Agenda. Commissioner Wooten second.

Items 3 and 4 were pulled for discussion.

Vote: 5/0

Item 3. Public Buildings Simplex and Grinnell Contract. Lou Ganzzermiller informed the Board that the County received a bill from Simplex Grinnell for the Courthouse and tried to add the Permits Building to it, but needed a renewal contract to add the building. **Vice Chairman Austin made a motion to approve the Simplex Grinnell contract. Commissioner Wooten second.**

Vote: 5/0

Item 4. Sheriff's Contracts. Questions were raised concerning the purpose of the Sungard OSSI contract. Major Widener informed the Board that it was a maintenance agreement for software only. **Commissioner Wooten made a motion to approve all three of the Sheriff's contracts (Gene Renegar, Sungard OSSI and Priority Dispatch). Commissioner Garner second.**

Vote: 5/0

Board Action

- (1) Wayne Matthews, Chair of the Criminal Justice Partnership Advisory Board informed the Board that the County has received a \$12,171 Bureau of Justice JAG grant to augment their outpatient substance abuse treatment groups for sentenced offenders and pretrial clients.. The grant does not require a County match.

Commissioner Wooten made the motion to accept the 2010 BJA JAG Award for the CJPP program in the amount of \$12,171 for Yadkin County. Commissioner Garner second.

Vote: 5/0

- (2) Jason Walker, Soil and Water Conservation Director presented a monitoring contract with Jordan, Jones and Goulding, Inc. (JJ&G) for approval. DENR's 404 report requires monitoring dams. JJ&G currently monitors the 5D dam and this contract will include the Effie G. West, Carl Shore and Dinkins Bottom sites.

Commissioner Wooten made the motion to approve the one year monitoring contract with Jordan, Jones and Goulding, Inc. in the amount of \$23,200.00 for the Effie G. West, Carl Shore and Dinkins Bottom sites. Commissioner Garner second.

Vote: 5/0

- (3) Eddie Wooten, DSS Director, presented a contract with Vanguard for professional services to assist with the increase of the food stamps caseload. Staff will electronically send information to Vanguard and will pay per application processed.

Vice Chairman Austin made the motion to approve the contract for professional services with Vanguard professional staffing. Commissioner Wooten second.

Vote: 5/0

- (4) Sheriff Cain informed the Board that a picture had been located of Sheriff Vander Zachary, who was Sheriff in 1920 and was killed in the line of duty. He would like for the County to restore and properly preserve the photo. He also asked the Board to consider transferring the Communications Center from his supervision to the County Manager's supervision. It has been discussed for quite some time and it eliminates the need for telecommunicators to be subject to Sheriff standards.

Vice Chairman Austin made the motion to accept the change of Communications direct supervision from the Sheriff's Department to the County Manager. Commissioner Garner second.

Vote: 5/0

- (5) -- (7) Christopher Ong presented three (3) items for adoption for the Single Family Rehab program. The policies included Single Family Rehab Assistance Policy, Single Family Rehab Procurement and Disbursement Policy and the Project Budget Ordinance.

Commissioner Wooten made the motion to approve all three policies as presented. Commissioner Garner second.

Vote: 5/0

- (8) Mike Reavis, Health Director requested the Board to permit him to advertise a Public Health Nurse III position. This position was previously a Public Health Nurse II position, but due to the required duties, a PHN III is more appropriate and has been approved by the Office of State Personnel. The position will be a grade 73 and a salary up to \$51,000 based upon education and experience. Approximately 1/3 of the salary comes from the County.

Commissioner Garner made the motion to authorize advertisement of the Public Health Nurse III position as requested. Vice Chairman Austin second.

Vote: 5/0

(9) Jeff Cochran with YVEDDI came to present the Rural Operating Assistance Program Grant application and public hearing. The agenda request from YVEDDI did not indicate that a public hearing was to be held and it was not on the Board's agenda appropriately. Attorney Graham informed the Board that it would indeed need to be on the agenda as a Public Hearing. The Board agreed to schedule the Public Hearing for September 20. YVEDDI will advertise the Public Hearing in the Winston Salem Journal.

(10) Jeff Cochran with YVEDDI presented an agreement between YVEDDI and the Northwest Piedmont Council of Governments (NWPCOG) for legal services.

Commissioner Wooten made the motion to approve the Legal Services Agreement between YVEDDI and NWPCOG. Commissioner Garner second.

Vote: 5/0

Attorney Graham had to leave the meeting at 12:15pm for a prior commitment.

(11) EMS Director Brent Hawks presented a resolution for financing Zoll defibrillator equipment through Synergem and SunTrust Bank. Mr. Hawks informed the Board that the items had not been formally bid, but he had been told they were on State contract and he was trying to confirm that. The Board decided to table this item until the next meeting, unless it can be confirmed they are on State contract. The Board also requested that they see the final contract prior to approval.

After the Commissioners' comments portion of the meeting, Mr. Hawks informed the Board that the items were on State contract.

Commissioner Moxley made a motion to approve the attached Resolution of Governing Body allowing EMS to proceed with procuring funds for the equipment attached and authorizing the Chairman to execute the Master Lease Agreement. Commissioner Garner second. After discussion, Commissioner Moxley amended his motion to adopt the Resolution changing where it stated "Chairman and other officers" and replacing it with "the Board". Vice Chairman Austin second.

Vote: 4/1 (Wooten abstained due to not having additional pricing and final contract)

(12) EMS Director requested the Board declare an ambulance surplus.

Commissioner Wooten made a motion to declare one ambulance chassis Vin# 1FDXE45P45HBO9904 surplus and allow it to be traded in towards the remount and refurbish to a new chassis. Commissioner Garner second.

Vote: 5/0

(13) Shacktown Road Sign. The Yadkinville Town Council had previously requested the NC Department of Transportation to change the sign on Hwy. 421 from Shacktown to Old Stage Road because Shacktown doesn't give a favorable image for Yadkinville. Dean Ledbetter with NCDOT requested the Board of Commissioners' input.

Commissioner Wooten made a motion for authorize the County Manager to respond to Dean Ledbetter's request recommending the sign be changed to Old Stage Road. Vice Chairman second.

Vote: 5/0

(14) County Manager Church presented a summary tabulation sheet regarding the Request for Proposals for replacing the Courthouse Roof.

Commissioner Wooten made a motion to authorize the County Manager to negotiate a contract with Atlas Engineering (primary) or Nelson, Hall & Associates, Inc. (secondary) for the courthouse roof project. Commissioner Moxley second.

Vote: 5/0

(15) County Manager Church requested a new position be added to the Pay and Classification Plan for a Public Buildings Maintenance Supervisor position.

Commissioner Wooten made a motion to add the position Public Buildings Maintenance Supervisor at a grade 63 to the Pay and Classification Plan and authorize the Manager to advertise and fill the position. Commissioner Moxley second.

Vote: 5/0

(16) County Manager Church presented a Budget Amendment transferring funds to permit Finance Director Sheron Church to attend the County Administration Course at the School of Government in Chapel Hill.

Commissioner Wooten to approve the budget amendment as presented. Commissioner Garner second.

Vote: 5/0

(17) County Manager Church presented information on firms who responded to the request to conduct a Performance Audit on the Health Department. Evergreen and UNC School of Public Health had submitted proposals. Vice Chairman Austin stated that Evergreen will assess more than UNC and will help the new Director and the Health Board. Chairman Wagoner asked County Manager Church if the Board were legal in doing a Performance Audit of the Health Department. Church responded that the School of Government had responded to him, as well as to Mike Reavis' email. Chairman Wagoner asked Commissioner Wooten if this had been discussed by the Board of Health and Commissioner Wooten responded yes they had discussed it. Commissioner Wagoner stated that he would like to have the backing of the Health Board in making the decision.

Vice Chairman Austin made a motion to give the County Manager authority to enter into a contractual agreement with Evergreen firm, not to exceed \$23,950. Commissioner Wooten second.

Vote: 2/3 (Moxley, Garner and Wagoner AGAINST)

(18) Budget Amendment for the Health Performance Audit. No action was needed on this item due to the failing of Item #17.

Calendar Notes

Public Auction September 25

Employee Appreciation October 7

Manager's Report

1) Asbury Church Road Report by Jim Haynes. Dennis Katsmarsky with Acadis was also present and they have identified 400-500 feet that could be cut from the project and potentially save \$90,000. However, it will cost \$4,500 in engineering fees to achieve the savings.

Commissioner Wooten made a motion to authorize the changes. Commissioner Garner second.

Vote: 5/0

2) Clerk to the Board Advertisement/Possible Board Action.

Commissioner Wooten made a motion to authorize the County Manager to advertise the Clerk to the Board position. Commissioner Garner second.

Vote: 5/0

3) County Motto Report. Chairman Wagoner reported that there had been 12 responses to the County Motto Contest. He requested the local newspapers present help promote the contest.

Commissioner Comments

Commissioner Wooten requested to make a motion to request Attorney Rice to respond to Ann Watkins' email.

Vice Chairman Austin made a motion to amend the rules to allow Commissioner Wooten's motion. Wooten second.

Vote: 3/2 Motion failed due to 2/3 approval required to amend rules.

Commissioner Wooten stated he was highly disappointed that the Board of Commissioners was not stepping up.

Commissioner Moxley stated that he along with, Vice Chairman Austin and County Manager Church attended the NC Association of County Commissioners' Conference.

Commissioner Garner asked Tim with "The Ripple" if he knew about the August 30th Board meeting and about the Carolina Journal reporter. He stated that he was an above board person, there is a witch hunt going on and the truth will come out.

Vice Chairman Austin stated that all of the Health Department issue began with an employee complaint. If everyone will be open, honest and forthcoming with all facts the issues can be addressed. The best thing is to be open, if there's nothing to hide, nothing will be found.

Commissioner Wooten stated the Board should have reviewed all info.

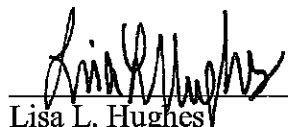
Chairman Wagoner requested a pocket for the agenda packet for all the extra stuff.

Commissioner Wooten made a motion to adjourn the meeting at 1:50pm. Commissioner Moxley second.

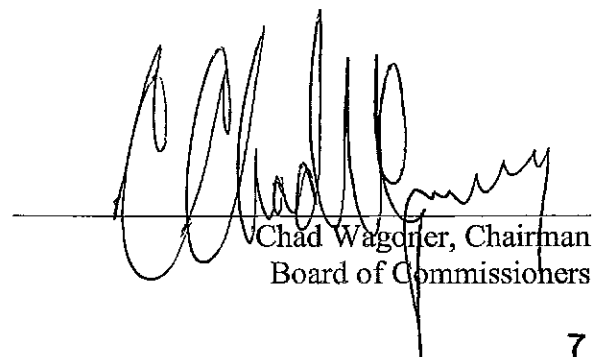
Vote: 5/0

Adopted this the 20th day of September, 2010.

Prepared by



Lisa L. Hughes
Assistant to the County Manager/HR Officer



Chad Wagoner, Chairman
Board of Commissioners

Main Identity

*Add to official minutes per
Commissioner
Wooten*

From: "Aaron Church" <achurch@yadkincountync.gov>
To: <achurch@yadkincountync.gov>; <Attorney@yadkincountync.gov>; "Brady Wooten"
 <Elkin@yadtel.net>; <bwooten@yadkincountync.gov>; <ccwagone@yadkincountync.gov>;
 <dmoxley@yadkincountync.gov>; <jhaynes@yadkincountync.gov>;
 <kaustin@yadkincountync.gov>; <tgarner@yadkincountync.gov>
Sent: Tuesday, August 31, 2010 1:53 PM
Subject: Email from Keith Phillips

Please see below an email from Dr. Phillips.

Aaron Church, County Manager
 Yadkin County
 217 E. Willow Street
 Post Office Box 146
 (336) 679-4200
 (336) 679-6005
www.yadkincountync.gov

All e-mail correspondence to and from this address is subject to the North Carolina Public Records Law, which may result in monitoring and disclosure to third parties.

From: Keith Phillips [mailto:akp1@pprdds.com]
Sent: Tuesday, August 31, 2010 11:30 AM
To: Aaron Church
Cc: Mike Reavis
Subject: RE: meeting

Mr. Church:

It is becoming increasingly evident that Mr. Wooten refuses to honor his requirement as a county commissioner to refrain from inappropriate involvement in day to day activities of the Health Department. As an example, he was in the health director's office yesterday requesting a copy of the state audit before I or any other members of the Board of Health even knew the report had been received. You recall we discussed whether this report was public information or not in our meeting and decided as I recall to provide all commissioners a copy of the report when I presented the findings on the 20th. While I believe this report to be public information, I DO NOT believe it should be released for public review until after the Board of Health meets to review the findings—and certainly not before the full Board of Commissioners is briefed on the findings. I asked Mike Reavis to forward a copy of the report to you this morning—you will see that there is nothing of significance in the full report that had not been given to us in the preliminary report. Mr. Wooten's efforts to take this public—I and other members of the BOH have been contacted by the Carolina Journal this morning for comment—are likely not in the best interest of the county. I would request that you contact the BOC Chair and take whatever actions you deem necessary to restrain Mr. Wooten in this situation. Clearly he is acting independent of both the Board of Health and the Board of Commissioners at present. I will let you know of topics broached and my responses with the reporter from the Carolina Journal...my guess is you will be next on the list for an interview.

akp

From: Aaron Church [mailto:achurch@yadkincountync.gov]
Sent: Wednesday, August 18, 2010 6:16 PM
To: Keith Phillips; Lisa Hughes
Cc: Attorney@yadkincountync.gov
Subject: RE: meeting

Dr. Phillips,

The email I sent this morning that read, "2pm Today?" was sent from my iPhone. I misread your email and thought you were referring to today. I am available next Monday and Thursday at 2pm.

Thank you for your willingness to meet with us and I look forward to meeting with you. If there is anything I can do in the interim to be of assistance please let me know.

Have a nice trip.

Sincerely,

Aaron

Aaron Church, County Manager
Yadkin County
217 E. Willow Street
Post Office Box 146
Yadkinville, NC 27055
Phone: (336) 679-4200
Fax: (336) 679-6005
www.yadkincountync.gov

All e-mail correspondence to and from this address is subject to the North Carolina Public Records Law, which may result in monitoring and disclosure to third parties.

From: Keith Phillips [mailto:akp1@pprdds.com]
To: Lisa Hughes [mailto:lhughes@yadkincountync.gov]
Cc: achurch@yadkincountync.gov, Attorney@yadkincountync.gov
Sent: Wed, 18 Aug 2010 02:54:51 -0700
Subject: RE: meeting

The Board of Health met last night to discuss and take action as they deemed appropriate on all issues discussed in our meeting. Unfortunately, I will be out of the country until Monday of next week. Would it be possible for us to gather once again so that I may brief you all on the results of our findings and the actions taken? I am available any time after 2:00 PM. Thanks, AKP

From: Lisa Hughes [mailto:lhughes@yadkincountync.gov]
Sent: Monday, August 09, 2010 11:31 AM
To: Keith Phillips
Cc: achurch@yadkincountync.gov; Attorney@yadkincountync.gov
Subject: meeting

Keith,
Please see the attached document signed by the County Attorney, County Manager and me.

Lisa L. Hughes
Assistant to the County Manager/HR Officer

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9/7/2010

Main Identity*Add to official minutes per Commissioner Wooten*

From: "Aaron Church" <achurch@yadkincountync.gov>
To: "Jim Graham" <Attorney@yadkincountync.gov>
Cc: <Attorney@yadkincountync.gov>; "Brady Wooten" <Elkin@yadtel.net>;
 <achurch@yadkincountync.gov>; <bwooten@yadkincountync.gov>;
 <ccwagone@yadkincountync.gov>; <dmoxley@yadkincountync.gov>;
 <jhaynes@yadkincountync.gov>; <kaustin@yadkincountync.gov>; "Tommy Garner"
 <mopar@yadtel.net>; <tgarner@yadkincountync.gov>
Sent: Friday, September 03, 2010 7:38 PM
Attach: Chad%20Wagoner%20final[1].doc
Subject: Public Record 4

Mr. Graham,

The below email and attachment was forwarded to me by a commissioner. I forwarded this to Attorney Rice and Attorney Dean. They both told me that the email was public record. Do you concur?

Thanks,

Aaron

> > ----- Original Message -----

> > From: Keith Phillips

> > To: Trish Belton ; esc@escelkin.com ; dogdoctor@earthlink.com ;

> > bhcc@yadtel.net ; terremsmith@aol.com ; wattie320@aol.com

> > Cc: Mike Reavis

> > Sent: Thursday, September 02, 2010 3:23 PM

> > Subject: RE: Email requests

> >

> >

> > I just spoke with Tommy Garner who informed me that at the meeting the
 > > commissioners held with two private, outside attorneys recently they
 were

> > told by these attorneys that Mike Reavis is the custodian of these
 emails

> > and he DOES NOT HAVE TO RELEASE THESE TO ANYONE! Tommy said Brady kept
 > > pushing it but that they were clear any release of these documents or

> > media is entirely at Mike's discretion so, my advice is for Mike to
 > > simply say no-at least until we have the opportunity to meet with the

> > Commissioners and have our side heard. To date, the commissioners have
 > > heard ONLY from Mr. Wooten and Mr. Church. I have briefed Mr. Church on

> > the findings and actions of the BOH as directed by the BOH and I am
 > > scheduled to meet with the Commissioners on the 20th at their evening

> > meeting. Unfortunately, it would seem that those parties interested in
 > > promoting their own agenda here are still very active.

> >

> >

> >

> >

> > I just got off the phone with Jim Graham who reiterated that the outside
 > > attorneys had confirmed the above statements by Tommy Garner. The

> > attached document is being sent to Jim Graham immediately. Thanks, akp

Aaron Church, County Manager

Yadkin County

217 E. Willow Street

Post Office Box 146

Yadkinville, NC 27055

Phone: (336) 679-4200

Fax: (336) 679-6005

www.yadkincountync.gov

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All e-mail correspondence to and from this address is subject to the North Carolina Public Records Law, which may result in monitoring and disclosure to third parties.

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.851 / Virus Database: 271.1.1/3111 - Release Date: 09/03/10 02:34:00

Chad Wagoner, Chairman
Yadkin County Board of Commissioners

Dear Mr. Wagoner:

Please accept this letter as a formal request for your assistance in helping to resolve the ongoing dispute between Commissioner Wooten, County Manager Aaron Church, and Mike Reavis and myself. I firmly believe it is clearly in the best interest of all concerned if this issue is resolved in the most amicable way possible.

I have forwarded three relevant statutes on this email question to Jim Graham for his review:

State Statute 132-1. "Public records defined" which defines public records as "made or received...in connection with the transaction of public business"; 132-2. Custodian designated, which states "The public official in charge of an office having public records shall be the custodian"; and 132-6a Inspection and examination of records which states "custodian does not mean an agency that holds the public records of other agencies solely for purposes of storage or safekeeping or solely to provide data processing"; and 131-6c which states "If it is necessary to separate confidential from non-confidential information in order to permit the inspection, examination, or copying of the public records, the public agency shall bear the cost of such separation ..."

Clearly, it is our belief that personal, non-work related emails between Mike Reavis and myself qualify as non-public information and therefore fall into the category of requiring that they be separated and kept private. Clearly, as Mr. Graham has already stated, Mr. Reavis is the official "custodian" of these emails—not Mr. Church who represents the County Manager's office and is responsible only for the "storage and safekeeping" of this data. Therefore, release of the records or information contained within those records by Mr. Church or Mr. Wooten would require that they be prepared to accept the potential liability for acting outside the scope of their authority as County Manager/Commissioner. Additionally they would be required to accept full responsibility for ensuring that all information regarding the emails is truthful and that any possible untruthful releases constitute defamation of character. Accordingly, any participation by other commissioners in the release of this material would subject them to the same liability.

In terms of public interest here, this should simply reinforce the policy statement recently sent to all county personnel that instructs them to discontinue use of county email/computers for transmission or conduction of personal business. We would welcome a check by Mr. Church to ensure that all non-business related emails between myself and Mr. Reavis discontinued as of the date specified.

Mr. Church stated that he had in his possession a jump drive with all emails between Mr. Reavis and myself. This should be immediately given to Mr. Reavis as custodian of this information. No copies should be made or obtained going forward. In the event copies, digital or printed, have already been made and/or distributed in any fashion, it

would seem prudent to inform the individuals in receipt of such data that distribution of that information will subject them to the liability outlined above.

You should also be aware that this issue was discussed with the Board of Health at our most recent meeting. With the exception of Mr. Wooten, the entire board agreed that Mr. Wooten's request for public information did not include personal, non-work related emails between Mr. Reavis and myself.

In light of the above information, I believe you have reason to be concerned that Mr. Church—even if it is at the direction of Mr. Wooten—is overstepping his authority in potentially damaging ways and his actions that result in negative publicity could hinder our search for a new health director.

In short, I would simply ask that you consult with Mr. Graham regarding the above information and any other more extensive research he may be able to retrieve that would assist everyone involved here in resolving this situation in as fair and positive way as possible. The citizens of Yadkin County will also benefit from an orderly, economical resolution to this question that will result from utilizing Mr. Graham's services.

Sincerely,

Dr. A. Keith Phillips, Chairman
Yadkin County Board of Health

Main Identity*add to official minutes per Commissioner Wooten*

From: <Wattie320@aol.com>
To: <dogdoctor@embarqmail.com>; <terremsmith@aol.com>; <wattie320@aol.com>;
 <bhcc@yadtel.net>; <GHinson@crossroadsBHC.com>; <lynnpinnix@yadtel.net>;
 <bwooten@yadkincountync.gov>
Cc: <ccwagone@yadkincountync.gov>
Sent: Tuesday, September 07, 2010 10:13 AM
Subject: Board of Health issues

Dear Health Board member,

I received telephone call from Dr. Keith Phillips on Friday informing me of his resignation from the Yadkin County Health Board. I am personally deeply saddened by this as I believe the citizens of Yadkin County have benefited greatly from his service.

As Vice Chair, I met with Dr. Phillips to discuss moving forward as a group and the challenges that will be involved in seeking a new Health Director. It appears to me that the representation from the Commissioners on the Health Board has a conflict of interest that has the potential to impact the judgment of that representation and the ultimate decisions of the group. I believe that it will be in the best interests of the citizens of Yadkin County for the Commissioners to appoint an alternate Commissioner to serve on the Health Board other than Mr. Wooten.

Here are the factors that support this position:

Mr. Wooten, was cited for environmental regulation violations several years ago, by the Department of Environmental Health, and a significant fine was imposed upon Mr. Wooten as a result. The current Health Director had a role in generating those citations.

Mr. Wooten and Mr. Church, the new county manager, have already, on their own volition examined the emails between the Health Director and Dr. Phillips, including personal emails. Mr. Wooten would not have had any access to these emails except through his official capacity as County Commissioner. He is now making the request to examine the emails as a "private citizen". I believe, as County Commissioner, Mr. Wooten has violated the rights of Dr. Phillips and the Health Director which gives rise to a cause of action against Mr. Wooten and Mr. Church for both Dr. Phillips and the Health Director.

Subsequent to the Board of Health meeting in August, where the group declined to initiate a performance audit of the Health Department, Mr. Wooten, in an illegal, closed, Commissioners meeting, moved for a performance audit of the Health Department. This action was taken by the Commissioners without consultation with the Board of Health, and without consultation with the Health Director. This action will use taxpayer funds where the Board of Health has already found no need for further action. These actions by Mr. Wooten are in direct conflict with the consensus of the Health Board.

It is my opinion that continued service as a member of the group to which the Health Director reports is a conflict of interest for Mr. Wooten for all of the above reasons.

I am requesting a response from each Health Board member. I will telephone those members for whom I do not have an email address. If the majority of the Health Board supports this, I will request agenda time to present this request at Wednesday morning's Commissioners meeting. If not, I will present my thoughts as a private citizen during public comment time.

Thank you for your attention to this matter. We have much work before us in selecting a new Health Director.

yours,

Anne Watkins
Vice Chair

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